

REMARKS

Claim Status

Claims 37-54 are pending in the present application. No additional claims fee is believed to be due.

Claims 1-36 were previously canceled without prejudice.

Response to Requirement for Election of Species

The Office has required an election of species. The Office states that Applicants are “required to elect an elastic component from the components disclosed, a nature of geometric pattern from those disclosed (e.g. continuous or intermittent), a substrate from those disclosed (e.g. nonwoven fibrous web or woven fibrous web) and a property in which the at least two elastomeric members differ from the properties disclosed (e.g. differing width dimensions, differing thickness dimensions, differing mechanical properties).”

Under MPEP §806.01, a provisional election of a single species may be required where only generic claims are presented and the generic claims recite such a multiplicity of species that an unduly extensive and burdensome search is necessary. Applicants respectfully assert that there is no undue burden placed on the Office in examining all species. If Applicants are required to specify an elastic component, a nature of geometric pattern, a substrate and a property in which the at least two elastomeric members differ the Office will still be required to search absorbent articles in general. Hence, Applicants respectfully submit that there is no undue burden placed on the Office in examining the claims as filed and the election of species requirement should be withdrawn.

In the event the Examiner’s election is made final, Applicants hereby provisionally elect the following species of the claimed invention for examination and prosecution: Applicants elect the elastic component to be a leg member for examination and prosecution of Claim 39 which is dependent upon Claim 37. Applicants elect the geometric pattern to be continuous for examination and prosecution of Claim 40 which is dependent upon Claim 37. Applicants elect the substrate to be a nonwoven fibrous web for examination and prosecution of Claim 47 which is dependent upon Claim 37.

Appl. No. 10/811,527
Docket No. 8768MD2
Response to Election Requirement dated February 12, 2009
Reply to Office Action mailed on January 23, 2009
Customer No. 27752

Applicants elect the property to be differing mechanical properties for examination and prosecution

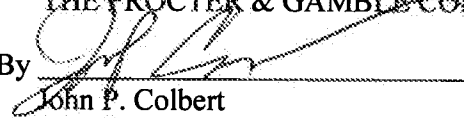
Conclusion

This response represents an earnest effort to place the application in proper form. In view of the foregoing, reconsideration of this application and allowance of claims 37-54 is respectfully requested.

Respectfully submitted,

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Date: February 12, 2009
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